



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 17, 1998

Ms. Barbara Heptig
Assistant City Attorney
City of Arlington
620 W. Division Street, Mail 04-0200
Arlington, Texas 76004-1065

OR98-2726

Dear Ms. Heptig:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 119685.

The City of Arlington Police Department (the "department") received a request for arrest report information concerning a specified individual and charges of indecency with a child. In response to the request, you submit to this office for review a copy of the records which you assert are responsive. You state that the requested information is excepted from disclosure pursuant to section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code and common-law privacy. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 261.201(a) of the Family Code reads as follows:

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with . . . [the Family] code and applicable federal or state law or under rules adopted by an investigating agency:


(1) a report of alleged or suspected abuse or neglect made under . . . chapter [261 of the Family Code] and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under . . . chapter [261 of the Family Code] or in providing services as a result of an investigation.

The submitted information consists of documents which we believe are "reports, records, communications, . . . and working papers used or developed" in an investigation conducted under and subject to chapter 261 of the Family Code. Because you have not cited any specific rule that the department has adopted with regard to the release of this type of information, we assume that no such regulation exists. Given that assumption, the requested records are confidential pursuant to section 261.201 (a) of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute). Consequently, the department must withhold the requested information *in its entirety* pursuant to section 261.201(a) of the Family Code, in conjunction with section 552.101 of the Government Code.¹

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,


Sam Haddad
Assistant Attorney General
Open Records Division

SH/mjc

Ref.: ID# 119685

Enclosures: Submitted documents

cc: Ms. Jan Neelley, CLA
Bailey & Galyen
1900 Airport Fwy
Bedford, Texas 76022
(w/o enclosures)

¹As we conclude that the department must withhold the requested information based on section 552.101 in conjunction with section 261.201(a), we need not consider your other argument against disclosure.